

Mr. Parsons offered the following Resolution :

“Resolved, That the Secretary of State be required to furnish each member of the Senate with a copy of Oldham & White’s Digest of the Laws of Texas, together with a copy of the Journals of the last session of the Senate.” Adopted.

Mr. Guinn offered the following Resolution :

“Resolved, That the Secretary furnish stationery, envelopes, stamps, &c., and that it be paid for out of the contingent fund of the Senate.” Adopted.

The Committee appointed to wait on the Governor, and inform him of the organization of the Legislature, reported that they had performed that duty, and that His Excellency was ready to communicate his Message at 11 o’clock, A. M., to-day.

Mr. Erath offered the following Resolution :

“Resolved, That with the concurrence of the House, the Senate will meet the House at — o’clock, A. M., to receive the Governor’s Message.”

Mr. Rainey moved to fill the blank with “eleven.”

Mr. Throckmorton moved to fill the blank with “10 o’clock to-morrow.” Carried.

The question on the adoption of the Resolution was then put and carried.

On motion of Mr. Throckmorton, the Resolution was re-considered and laid on the table.

On motion of Mr. Hart, the Senate adjourned until 10 o’clock to-morrow.

THURSDAY, NOV. 10, 1859.

Senate met pursuant to adjournment. Prayer by the Chaplain—roll called—quorum present. The journal of the preceding day was read and adopted.

Mr. Harmon presented the petition of sundry citizens of Hopkins county, asking relief for the widow and children of Wm. W. Poff, deceased, and others. Referred to the Committee on Claims and Accounts.

Mr. Duggan presented the petition of Casper Ernst Vogt, asking that his name be changed. Referred to the Committee on the Judiciary.

Mr. Britton introduced a Bill authorizing the Governor to raise without delay, for the protection of the citizens of Texas, a mounted military corps of 1,000 men to be known and designated as Texas Rangers. Read first and second time, and referred to the Committee on the Militia.

Mr. Hall offered the following Resolution :

Resolved by the Senate, That the office of Messenger be created for the present session, and that the incumbent be required to act as Assistant Doorkeeper, and that he receive the same pay as other officers of the Legislature. Adopted.

On motion of Mr. Lott, the Senate proceeded to the election of Messenger.

Nominations being in order, Mr. Sims nominated Mr. Mangum.

Mr. Townes nominated W. H. Sharp.

Mr. Duggan nominated E. S. Giles.

Mr. Erath nominated W. H. Martin.

Mr. Lott nominated Mr. Clare.

Mr. Schleicher nominated Mr. McMahan.

Mr. Rainey nominated A. Weir.

Messrs. Hart, Schleicher and Hyde were appointed tellers.

On the first ballot, Mr. Mangum received five votes; Mr. Sharp one, Mr. Giles two, Mr. Weir four, Mr. Martin one, Mr. Clare five, and Mr. McMahan six votes.

No one candidate having received a majority, the names of Mr. Martin, Mr. Sharp and Mr. Giles were withdrawn, whereupon the Senate proceeded to a second ballot, resulting as follows :

Mr. Mangum received seven votes, Mr. Clare four, Mr. McMahan seven, and Mr. Weir seven votes.

There being no election, a third ballot was had, when Mr. Mangum received nine votes, Mr. Clare two, Mr. McMahan six, and Mr. Weir eight votes.

There being still no election, the name of Mr. Clare was withdrawn.

On the fourth ballot, Mr. Mangum received nine votes, Mr. McMahan five votes, and Mr. Weir eleven votes.

No one having received a majority, the name of Mr. McMahan was withdrawn, whereupon a fifth ballot was had with the following result :

Mr. Mangum received ten votes, and Mr. Weir received fourteen votes.

Mr. Weir having received a majority of the votes, was declared duly elected ; and came forward and took the oath of office.

A message was received from the House through their Chief Clerk, informing the Senate that the House had adopted the following Resolutions, and asking the concurrence of the Senate :

Resolved, That a Committee of five be appointed by the Speaker to act in conjunction with a like Committee from the Senate on the Court of Claims."

Resolved, That the House invite the Senate to meet them

in joint session to-day at eleven o'clock, to hear the Biennial Message of the Governor read."

"*Resolved*, That the Senate concurring, the two Houses of the Legislature will meet in the Hall of the House of Representatives on to-morrow at eleven o'clock, A. M., for the purpose of counting the vote cast in the late election for Governor and Lieut. Governor."

And that the House had appointed Messrs. Craig, Shelton, Davis of Bastrop, Crawford and Shannon, a Committee on the Court of Claims.

On motion of Mr. Throckmorton, a Committee was appointed to act in conjunction with the Committee from the House on the Court of Claims.

Messrs. Throckmorton, Guinn and Paschal were appointed said Committee.

On motion of Mr. Guinn, the invitation of the House to meet them for the purpose of hearing the Message of the Governor read, was accepted.

Mr. Guinn moved to amend the Resolution from the House inviting the Senate to meet them in joint session for the purpose of counting the vote for Governor and Lieut. Governor, by striking out "to-morrow" and inserting "on the eleventh instant." Carried.

Mr. Guinn offered the following Resolution :

"*Resolved*, That the Committee on Printing be instructed to contract with the publishers of the State Gazette and the Southern Intelligencer for twenty numbers of each weekly issue for each member of the Senate, provided that the cost shall not be more than five cents per copy, and that each weekly shall contain the proceedings of the Legislature."

Mr. Shepard moved to strike out "twenty" and insert "one." Lost.

On motion of Mr. Guinn, the Resolution was referred to the Committee on Public Printing.

Mr. Lott moved that the Senate take a recess of ten minutes. Carried.

The recess having expired the Senate was called to order, and proceeded to the Hall of the House of Representatives, when the roll was called and a quorum being present, the Message of the Governor was read in the presence of both Houses of the Legislature in joint session, and is as follows :

GENTLEMEN OF THE SENATE

AND HOUSE OF REPRESENTATIVES:

In again communicating with the Representatives of the people, assembled for the performance of the important duties assigned by the Constitution, I am most happy to congratulate them upon the unusual causes of prosperity and happiness.— But while the hand of improvement is almost every where visible, and the labor of the husbandman generally rewarded in a degree commensurate with the skill and industry used, yet portions of the State have suffered from causes which I have been unable to remove, and to which I will hereafter more particularly allude.

At an early period after entering upon the discharge of my official duties, I submitted to the Legislature as full an exposition of the affairs of the State, as the limited time for preparation would then permit. In again performing this duty, I trust I will not be considered unmindful of its importance in declining to dwell at length upon some of the material topics then discussed. I find them less deserving of such consideration, from the fact, that my convictions have undergone but little change—having been generally confirmed by subsequent experience and reflection. I can say too, that several of my more important recommendations met with the prompt and favorable response of the last Legislature, in connexion with which I have only to report such proceedings as have been found necessary in their administration.

Under the provisions of the act approved February 15th, 1858 providing for a Digest of the laws of the State, the contract was awarded to Messrs Oldham and White, for the five thousand copies, at the price of three dollars per copy; the contractors voluntarily stipulating the execution of the entire work within the State. It affords me pleasure to be able to report, that the contract has been executed in a most satisfactory manner, and (it is believed) fully in compliance with the law, under which it was obtained, and the requisite number of books distributed among the officers of the different counties to which they are entitled. For merit of compilation and convenience of arrangement the work is believed equal to any similar publication in the Union—while if in mechanical execution it is not superior to those received in exchange from other States, where there are every means of greater proficiency, yet in consideration of its very low price, and its being our own production, it is creditable to the State, and must be productive of the success of similar undertakings, if persevered in and properly encouraged.

Some time during the month of July 1858, I received information through the Commissioner of the General Land Office, of the completion and return of the maps field notes, &c., to that office, of the subdivision of the University lands under the provisions of the act approved August 30, 1856, requiring their sale. John Henry Brown, Esq., a gentleman fully qualified in every respect, was appointed and received his commission on the 30th, of July 1858, as the agent of the State for the performance of that duty. His report, marked "A," is herewith submitted, from which it will be seen that the sales amount to 58,523 acres, representing a value of \$195,653 22. I invite your especial attention to this report so that such Legislation may be had thereon as shall be deemed necessary. There being no appropriation available for the purpose, I am constrained to ask the Legislature to make provision at an early period of the session for payment of the salary of Commissioner, and incidental expenses attending the sale. Pursuant to the act of 30th August, 1856, the last Legislature passed an act approved 11th of February, 1858, establishing the University of Texas, and it now only remains for the Legislature to take such final action upon the subject as shall be thought proper. I do not deem it necessary to remark further—either upon the object or the advantages to be derived from the location of this Institution in our midst after having discussed the matter so fully, soon after my induction into office. If I did, I should seek in vain anything more appropriate than is to be found in the report and preamble to the act of the last session. Whether the present shall be deemed a fit occasion for the permanent location of the Institution, must of course depend upon the discretion of the Representatives of the people, who are presumed to reflect most accurately their will. If, however, the time should be deemed premature, and a further postponement determined on, then it is to be hoped no rash means will be adopted blighting its prospects, and disappointing the hopes of those who have ever regarded the subject with so much anxiety and concern. With sincere and heartfelt regret, I have witnessed feelings of mutual and sectional hostility springing up in the minds of persons of different sections, however unjust in their causes, and pernicious in their effects. If they have been predicated upon views of economy, they are alike erroneous and unfounded, because the chief property of the Institution consists of land set apart, located and surveyed by the authorities of the late Republic of Texas, and which the State now holds in trust for this specific object; over which the authorities can rightfully exercise no other control than to pro-

vide for its faithful application to the object for which it was set apart. It is not the property of the State, except for the uses and benefits for which it was appropriated. Again, the establishment of either the one or of two such Institutions as was originally intended, does not necessarily depend upon the appropriation of a dollar from the Treasury. The original fifty leagues of land set apart for the purpose by the Texas Congress, might be considered ample, under wise and provident Legislation. Taking the sales of the past year as a fair estimate of their average value, they would now realise near eight hundred thousand dollars; and there is every reason for inferring that within the next five years those remaining unsold will receive an accession to their present value of not less than twenty-five (or perhaps fifty) per cent. But in addition to this, when it is remembered that at the last session of the Legislature, there was superadded every tenth section of the lands reserved to the State surveyed by Railroad companies, there cannot remain a doubt of the future sufficiency of the land for any object falling within the scope and purview of the Institution. As any action which may be taken this session, will probably be final, I invite your most earnest attention to the question of establishing one or two of these Institutions, hoping that whatever may be determined upon will redound most to the public advantage, and at the same time secure the fullest measure of satisfaction.

In taking leave of this subject, I cannot forbear expressing the opinion that there is no cause of conflict between the respective advocates of this measure, and those of common schools. They were both provided for by the Congress of the Republic, and neither of them have failed to receive a just and liberal consideration from the State Government. It cannot be believed, that all this has been done without some fair understanding, which was observed by the Convention which framed our present Constitution, in providing that each new county formed thereafter should be entitled to the same quantum of land as the old, and one-tenth of the annual revenue collected by taxation appropriated to the purposes of common school. If there has been any advantage given or partiality shown by the State Government, it is clear to which it has been without going into detail. It is sufficient that good policy be observed, and that justice be done. The State occupies the relation of trustee to the property of both; each alike present sufficient claim to her justice and consideration. Then let not her faith be tarnished by a diversion of the property which belongs to one, to the other; a measure which will be sanctioned by no principle, either of morals or law.

The feelings engendered by a controversy between these interests if fomented by the Legislature, will result in disaster and odium to both, and possibly involve the consequences of that system of class Legislation which was guarded against with most assiduous care by its framers, and is more to be deprecated than any other arising under free government.

Our system of common schools, though not extending its advantages as thoroughly as could be desired, for want of adequate means, approximates as nearly to the attainment of the end desired as any that could be established in a country so sparsely populated and undeveloped as ours. From the report of the Treasurer and ex-officio Superintendent, it will be seen that the sum for annual distribution amounts to \$113,609.04 and the scholastic population of the State to 101,081 in number which if distributed per capita would be but \$1.12½ to each. By amendment to the general law, passed at the preceding session of the Legislature, the mode of distribution was changed and the monies directly applied to the poor and indigent; and if this class does not now receive the benefit of its disbursement, ignorance or wilfulness can be the only cause. I can see no reasonable objection to a continuance of this plan for the present, and at least until the sum for disbursement shall have been largely increased. The foundation of the system rests in the policy of providing the means of education for the dependent and indigent, and although strenuously objected to by those most urgent for the early inauguration of the system, this plan has been found, from the experience of two years, to be the only one from which practical and beneficial results are to be expected. It is not for those who are able to provide for the education of their own children to object, since the means by which it is maintained have been set apart by the constitution and subsequent law, without the imposition of any new burthen upon the people for its support; and these it is hoped, will not be resorted to by this or any future Legislature. An increase of taxation for this purpose would be not only useless but oppressive and unjust; useless because in pursuit of an idle and impracticable theory which an increase of the present rate of taxation three-fold would not accomplish in our present local and geographical condition; oppressive and unjust because inequitable in the manner of its collection and distribution. It must be clear to every one that there are no means within the reach of the Legislature at present by which a thoroughly efficient fund can be provided for general distribution without an abuse of the taxing power as the productive:

well withstand, and which, if resorted to, will be endured with the greatest impatience. I have never believed that there was any validity in an objection to the annual distribution of the ten per cent. of the revenue collected by taxation and set apart to this object. Under the present law, the interest only is appropriated, and the principal set apart for investment. It is worthy of consideration, whether this should not be changed, and the \$31,000 annually accumulating from the annual taxes of the people, given that direction so plainly intended by the Constitution.

Nearly one-half of the two millions appropriated, the interest on which is set apart for purposes of education, has now been loaned to Railroad companies and drawn from the Treasury under the Act of September, 1856, and although secured by bond and mortgage on the road beds, it is useless to deny the truth that a feeling of insecurity pervades a large portion of the public mind. This grows out of the apprehension that the companies will not meet the engagements promptly, and that the Legislature may at some subsequent period relieve their condition, and finally, under the pressure of combinations, relinquish both principal and interest to the corporations. This apprehension is, strengthened by the example of other States in a similar condition, as well as by the past action of our own Legislature, both of which afford sufficient premonition of the danger to be incurred. It is a fact not to be questioned by any discriminating and informed mind, that the influence of the corporations is greatly on the increase, and that perhaps it already exercises a more controlling effect on the legislation of the State than all others combined. Viewing the subject in this light myself, I feel it to be my bounden duty to recommend, if possible, some measure which will prevent, by any possibility, the occurrence of such a calamity. No other presents itself to me than an amendment to the Constitution prohibiting the interposition of the Legislature for their relief. This is a question which appeals so directly to every feeling of self-preservation and duty, to every sentiment of philanthropy, patriotism and justice, that I can see no good reason why it should not be submitted unhesitatingly to the people for their action. It is true the corporations may oppose it, but surely they cannot be sufficiently strong thus early to exert a controlling influence over the action of the Legislature on this subject, or to endanger its adoption, if submitted by that body to the people. In conclusion of this important matter, I have only to add, that if it be deemed worthy of consideration it should not be delayed beyond the termination of your present session.

The subject of internal improvements, and especially that branch of it which relates to the building of Railroads, continues to increase in importance, and will do so until the wants of our varied commerce and agriculture shall have been supplied with the facilities of ready transportation to market. Continuously and in regular progression for the past six or eight years private interests have from different motives become involved, until there is now good reason for the opinion that there are few counties in the State, some of whose citizens are not directly and personally interested in some one or other of the Railroad schemes projected in different portions of our State. These in connection with the fact that the State is representing in her behalf the whole people, and upon certain prescribed conditions, is become the greatest contributor, should afford sufficient incentive to induce your most calm and deliberate consideration of the whole subject.

While I can without compromising any former opinion, invoke every reasonable aid calculated to promote the advancement of the infant and struggling enterprises which are so soon, if well conducted, to constitute the great leading arteries through which our commerce is to flow, I should be wanting to every sense of duty, if I did not again warn the Legislature of the consequence of unwise and improvident legislation in relation to them. This has been the fruitful cause of unnumbered evils in the past, and its continued repetition will necessarily involve new and perplexing complications to those which already encumber the subject. I have most earnestly to advise the adoption of all prudent and just measures for the protection not only of the public, but of private stockholders, against abuse of privilege and imposition by their managers. That this does exist in some instances, in a manner culpable in the highest degree, disreputable to the State and injurious to the honest paying and legitimate stockholder, carrying along with it, the never failing consequence of disappointment and distrust, is too patent to require the introduction of proof for confirmation. The adoption of measures for its correction and future prevention can by no possibility whatever, result in injury to such companies as have by legitimate effort and fair dealing, entitled themselves to support and confidence. This policy is calculated to forearm and strengthen and not to destroy those that are or may entitle themselves to any measure of public justice ; for without confidence, no corporation can long exist. Nor should they be permitted to do so. Obedience to law should be the indispensable condition, and if it is not the policy to demand "indemnity for the past" it should at

least be to require "security for the future." The strictest and most binding restraints are the only means of reaching such as abuse the trusts confided to them, by perverting franchises with which they have been but temporarily and conditionally invested, to private instead of public purposes, for which they were alone entrusted. In the absence of these, where speculation is the moving cause, every motive of fulfilling the object of their creation will be rendered subservient to that alone. Promises will continue to be made, building up public expectation but to be broken, leaving them to languish in hopes deferred. The most approved commentators have taught that corporations under the best regulated systems, are great though sometimes necessary evils, and will it not be most unwise of those who knowing, will not profit by their teachings. Our own Supreme Court have decided that the authority having the right to create, has also that to control. It is with you to say whether this shall be done. The remedy is in your power: it rests in your hands. It is you who can make and unmake, who can grant and refuse at pleasure, but the people, our common constituents, the representatives of whose honor and interests you in part are, expect that the prerogatives with which you are invested will be exercised with wisdom, firmness and impartiality, regardless of every private and personal consideration, for the public weal and for that only.

My own duty on this subject, without favor and without regard to consequences, has been performed. I informed the Legislature when I assumed my official responsibilities, that I should endeavor to execute the law against such as were found disregarding it. Two suits have been instituted, one against the Southern Pacific Railroad Company (for disobeying the law requiring their annual report and other causes,) for forfeiture of their charter; and another against the Texas Central Railroad upon a question of forfeiture arising under the provisions of the Act to encourage the construction of Railroads by donations of land. The first mentioned was tried by the District Court of Harrison county, at the Spring term, A. D. 1859, and decided in favor of the Company. That decision has been reversed by the Supreme Court upon points of law clearly showing the right of the State to prescribe and enforce such measures of regulation and control as the public interests may at any time require. I have no official information of the result of the suit upon a rehearing of the case before the District Court. It is reported to have been again decided in favor of the Company. I am however satisfied, if the proof could have been made and public justice had been done, the result would have been different.

The history of that Company with its multifarious abuses, has reflected discredit upon the other enterprises of the State and done injury which it will be impossible to repair. The decision of the Supreme Court debarred the issuance of further instructions from this office. In that of the Houston & Texas Central Road, it was intended, if judgment had been rendered in favor of the State, to have suspended its execution, until it had been ascertained whether the Company had complied with the provisions of the Act passed Feb. 4th, 1858, granting them an extension of time for the completion of the second and third sections of the road, and if complied with, then to exercise the power of remission with which the Executive is clothed. The provisions of the law have been complied with, and the suit directed to be discontinued upon payment of costs by the Company.

I fully concur in the opinion expressed by the State Engineer in his report, "that the State should have some controlling influence in the administration of the companies affairs," and invite attention to the suggestions made on that head. Whether these will be sufficient, may admit of some doubt. The State is a contributor to the extent of fully one-third of the legitimate cost and value per mile, of almost every one of these improvements, besides lending to the companies over one-third of the cost of construction. The whole people of the State are therefore much the more largely interested parties, and the question arises, if it may not be proper for their interests to be represented in the Board of Directors, by appointment of the Executive, of a limited number, under such rules and regulations as may be provided by law. It is not assumed that this could be done without the consent of the companies, but as a condition to amendments asked by them (if deemed advisable,) the object could be effected. I must again repeat the assertion that the imposition of additional conditions and safeguards for the better protection of the honor and interest of the public, whenever they may be required, are by no means intended to act prejudicially to those deserving of public favor, and need be attended with no such consequences; and I respectfully urge the removal of any such conditions with which companies may be encumbered, not found to promote that object.

In consequence of the death of the late State Engineer, Mr. WM. FIELDS, on the 9th Sept., 1858, I appointed Capt. E. F. GRAY, to fill the duties of that office until a successor should be elected. I call attention to the suggestions of his very able printed report before you. In the death of Mr. FIELDS, the State

has lost a good and useful citizen, who from his long public service, had won the esteem and confidence of many friends throughout the entire State.

Under the law approved 10th Feb., 1858, authorizing and requiring the appointment of a State Geologist, I succeeded after some unavoidable delay, in procuring the services of Dr. B. F. Shumard, then engaged in the geology of Missouri, who received his commission on the 30th day of Oct., 1858, and immediately entered upon the discharge of his duties. From the acknowledged importance of this survey to the State, I deemed the selection of this officer a question of paramount interest. I feel that there is not only cause of the highest satisfaction, but of congratulation, at the success of my efforts. The eminent reputation for attainments, Dr. Shumard brings to his aid in this survey, united with his assiduity and perseverance of character, offer the strongest assurance of its success. I can say scarcely less of his able and accomplished assistants, Dr. George G. Shumard and William P. Riddell, whose reputations are so well known to the history of science throughout the entire south west.

The time has been so short since the organization of the corps was completed, that a report containing very general and satisfactory results is not to be expected; but I am informed that one shewing the progress of the survey from the period of its organization to the close of field operations, the present season, will be submitted to the Legislature early in the session. The report will comprise an outline of the work done, together with a summary of the most important results.

I respectfully refer to estimates of the Comptroller for appropriations which will be required for continuing the survey, and recommend that they be made.

Agreeably to the provisions of the act of February 13, 1858, authorizing the Governor to procure a set of standard Weights and Measures to be deposited with the Treasurer; such standard has been procured from the U. S. Government, and is now in charge of that officer as directed by law. Through the agency of James B. Shaw, Esq., Comptroller, a contract was made with Mr. Henry Troemner, of Philadelphia, for fifty sets of those intended for the use of the counties, fifteen of which were consigned to Wm. M. Freeman, of Jefferson, Cass county; twenty to E. B. Nichols & Co., of Galveston; ten to Messrs. Baughn & Walker, of Port Lavaca; and five to Stephen Powers, of Brownsville, for distribution.

The limited fund appropriated by the Legislature not admit-

ing of a contract for a greater number at one time, I proposed to extend the contract for additional sets as the returns for these should come in, until each of the organized counties could be supplied. The orders not having been delivered as early the past year as was expected, and the returns having come in so tardily, the present season, the fund has not been reinvested as was originally intended, in order to carry out the intention of the law; but twenty-four counties having made the required returns to the Comptroller's Office, down to June of the present year. I recommend a continuation of the appropriation until all of the counties shall have been supplied on similar terms to those which have already received them. For further particulars, I refer to accompanying letter of instructions, marked "B" addressed to Chief Justices and consignees at the points where they were to be delivered.

It will be observed, from the report of the condition of the Penitentiary, that a debt has been contracted by the institution in the purchase of additional machinery for the manufacturing establishment. This became necessary from the increased number of operatives who were without profitable employment. Experience had shown that the operatives could not be so profitably employed at any thing else; and, therefore, at the urgent and united solicitation of the board, I sanctioned the measure, believing that the interest of the public service required it. It was expected at the time that the increased income of the institution would be very nearly sufficient to meet the obligations thus incurred by the time they fell due. Unavoidable circumstances, however, having prevented it, there will be required an appropriation by the Legislature to meet them, which I recommend, may be made. I refer to report for the amount, as well as for such other items of appropriation as may be required.

It is to be further observed, that before the meeting of another Legislature, if the number of convicts continue to increase as they have done for the past few years, additional room will be required for them. The board suggest the branching of the institution, which it seems to me would be better policy in the end and more profitable to the State than to make further additions to the present buildings. There is certainly great room for doubt whether more than two hundred and forty of these unfortunate men can be profitably employed in the same establishment. If this recommendation of the board should be adopted, a site, should be selected for its location, desirable both for health and convenience. The present institution has been subjected to a heavy and unnecessary expense for transportation, which should

be avoided, if possible, in making another selection. I refer with pleasure to the able and satisfactory manner in which the institution has been conducted for the past two years.

The difficult and arduous task will devolve on the present Legislature of making a new apportionment under the Constitution. The first eight years, which it was provided by that instrument should last from and after 1852, will have expired with the term of the present members. This subject is acknowledged to be one of the most difficult for legislation, and I respectfully suggest that a spirit of liberality, fairness and justice should alone animate your counsels in its consideration. It should be constantly kept in view that it is not intended for the use of individuals, parties or sections, as such; but for the whole people of the State, upon terms of equality and justice as nearly as may be practicable under the provisions of the Constitution. I feel that I am justified, from its importance, in inviting an early consideration of the subject.

I deem it my duty to call attention to the statutes relating to slaves. Since the passage of the act providing for the indemnification of the owners of those executed for crime, their value has increased more than fifty cent, and yet the act limits their appraisement to one thousand dollars. Nor is there any law by which the owner can be held to a limited pecuniary responsibility for the conduct of the slave. This leaves the slave without any legal restraint in all minor offences. The question will be a most delicate and difficult one for legislation without making it oppressive upon the owners. I doubt not it will receive that patient and impartial consideration which it deserves. Again, the act prohibiting slaves from carrying firearms is insufficient, and will not be enforced unless the offence is made indictable by the Grand Juries.

I recommend an amendment to the Penal Code, making the act of embezzlement by executors or administrators of the funds, of estates, of making false returns to the Probate Court, and other acts of gross mal-administration, punishable by indictment, and according to the grade of the offence.

It is with great reluctance that I call attention to the account of contingent expenses for the 7th Legislature—an item of which, for newspapers and postage alone, amounts to \$14,625 26. It is true that the two Houses of the Legislature have the unquestionable right to provide their contingent fund, and for which the Executive is in no measure responsible; but I must be permitted to express my disapprobation of the practice, which involves so large an expenditure of the public money without

effecting any perceivable good. The mails become flooded with matter, so that papers and documents, if they ever do reach their destination, are so long in doing so, that they are read with little or no interest by those who receive them.

I would respectfully call the attention of the Hon. Legislature to the fact of the omission of that body, at its last session, to make the usual appropriation for proclamations of the Executive, pay of rewards for the arrest of violators of the law, &c.

The Executive, in consequence of said omission, on the part of the last Legislature, declined offering any reward for some time; but crime and a disregard for the lives and property of our citizens, which seemed to be alarmingly on the increase, earnestly demanded action of the Executive. Accordingly rewards have been offered, and proclamations published in many papers in the State, which will require an appropriation of ——— dollars to meet. No rewards have been claimed, and the Executive is not aware of any arrests under said proclamations. Yet an appropriation is necessary to meet the demand in case of an arrest and delivery.

It will be seen by reference to the report of the Secretary of State, that the law of 1851, fixing the rate of charges for printing for the State is not so plain as to avoid misconstructions. Questions have arisen under this law, in reference to the amounts to be charged for different kinds of printing, which the Legislature might easily settle for the future, by such changes and modifications as would admit of no doubt as to its meaning. I am informed that the Public Printer will ask of the Legislature a full investigation of the entire matters in controversy. This will be not only due that officer, but the Secretary of State, by whose approval the accounts of the last two years have been passed. While it is not my purpose to pass an opinion upon the construction of the law itself, I am fully justified in stating that the rate of compensation charged is what has been uniformly allowed under the law since its passage, and the same as under the statutes of other States for similar work. If the construction given it for the past two years is a wrong one, then it has been equally so for the past six or seven, and the fault does not lie with the Printer, but with the Legislature, and those who have preceded me in office, in not bringing it to their attention.

The amendment to the State Constitution proposed by the last Legislature, giving to the various counties embracing school lands within their limits the power to sell said lands, &c., was submitted to the people, and it will be seen by a report of the Secretary of State, herewith submitted, marked ["C,"] that the

amendment was lost. The sparsity of the vote cast upon this amendment resulted, perhaps, from the want of general interest in the minds of the people, which might have induced an examination into the merits of the proposition, and thus a fuller vote both for and against it.

I submit herewith reports of the Blind, Lunatic and Deaf and Dumb Asylums, marked ["D"] to which I respectfully refer for information of their management, and wants of the Legislature. The disinterested and tender care with which these institutions have been watched by their trustees and Superintendents, is entitled to the highest praise and commendation ; while it at the same time, offers the strongest and best assurance that the interests of the State, and the institutions, have alike been the constant and only aim of those in whose charge and direction they have been placed. The charitable and beneficent purposes for which they are established, will no doubt insure for them the kindest consideration and liberality. For I am persuaded there can be no higher or holier purpose to animate the mind of legislators, than that of restoring by the States own bounty, the stricken and lost maniac to reason, to society and friends, of redeeming her unfortunate children from the abyss of perpetual darkness and ignorance, to light, knowledge, piety, and virtue, and of teaching, if not the blind to see, and the mute to speak—"the finger marks pointing the way to communion with God and intercourse with their more fortunate *fellow beings*."

Col. Edward Clark, Commissioner of Claims, resigned that office on the 7th of July 1859, and the Hon. Joseph Lee was appointed to fill the vacancy until the limit prescribed for the continuance of the office should have expired. The papers were then turned over to the Comptroller as directed by law.

I commissioned H. G. Hendricks, E. P. Nicholson, and John C. Burks, Esqs., March 9th 1858, under the act to ascertain what land certificates have been illegally issued in Peter's Colony, approved February 4th 1858. The duties of the commission were performed and a report of their proceedings made to the Commissioner of the Land Office, as required by the statute.

I enclose herewith a copy of instructions forwarded from this office marked ["E"] to Jas. S. Robinson, District Attorney of the 16th District, who is required to represent the State in all suits growing out of the statute where the State is a party. There has been no provision made for compensating that officer for the additional duties imposed on him by the Act, I therefore respectfully submit the opinion that some should be made.

It is with feelings of disappointment and regret that I am

unable to give a more favorable account of the condition of the frontier, and border sections of our State, which have been greatly annoyed by marauding bands of wild Indians, almost without intermission, since the adjournment of the last Legislature, notwithstanding my best efforts to repress them, and to protect our citizens. The appropriations made by the last Legislature for this purpose, have been exhausted, and an additional liability of about fifty-eight thousand dollars incurred by the Executive, for the same object, without, it is believed, effecting any permanent good. The line of frontier is so long, the settlements so sparse, and so badly prepared for defense, that if defended at one point, the Indians from their thorough knowledge of the country, have been enabled to direct their incursions in another quarter—such indeed is its geographical character, that if five or ten times the number of men had been stationed on the frontier, the same result would have ensued.

Foreseeing this difficulty, and believing the only mode by which the incursions could be finally precluded, would be to pursue the Indians to their own homes, Capt. Ford was instructed to make an expedition into the territory lying north of Red River during the spring of 1858, which was attended with as satisfactory results as could have been reasonably expected, from so small a force. Although it was not expected that a single victory over one of the numerous bands which had hitherto found in it a retreat from all danger, would give entire security to the border, yet it was hoped that so favorable a beginning by the State, would be the means of inducing the General government to adopt similar measures and persevere in them, with an adequate force until the Indians could be effectually subdued. In both, however, disappointment only has followed. The Federal Government has failed in its measures to meet my reasonable expectations, in spite of every effort on my part to induce its authorities to give us protection.

Having received reliable intelligence, in the ensuing fall, of the renewal of depredations, I dispatched on the 4th of October, by express, a commission with instructions to Col. James Bourland of Cook county, authorizing him, if expedient, to muster into the service of the State, a Company of seventy-nine men for three months, a portion of whom, were, however, by a subsequent order, continued for six months. Depredations continuing to increase with the approach of winter, I again authorised Capt. Ford to raise a company of eighty-nine men for the same purpose. The order bears date November 2, 1858.

The company was continued in service for six months, and although doubtless with the greatest possible exertion of both officers and men, it was found impossible to prevent the incursions of the Indian enemy, even from the district of country within which the company was stationed. The appropriation required for the payment of these two companies, as estimated by the Comptroller, is \$20,000 for that of Capt. Bourland, and, \$25,000 for that of Capt. Ford, there having been drawn by Capt. Ford, out of the appropriation already made, in part payment of expenses of his company, \$13,232 03.

Again, serious difficulties arose between the Indians occupying the Brazos agency, and the citizens of the neighboring country, growing out of a conviction of the complicity of the former with the depredations then being committed. On the night of December 27, a party of the Indians were attacked and a number of them killed in their camp without the Reserve. Upon receiving information of Capt. Ross, sub. agent, of further hostile demonstrations, I issued an address to the people of the neighboring counties, warning them against any rash act on their part, and assuring them of steps having been taken for the removal of the Indians as soon as possible, from their midst. Again, very serious disturbances arose, which for a time threatened the most dangerous consequences. As a means for restoring quiet and quelling the existing excitement, I appointed a board of five peace Commissioners consisting of Dr. Joseph M. Steiner of Travis, Col. John Henry Brown of Bell, the Hon. G. B. Erath, Capt. J. M. Smith, and Richard Coke, Esq., of McLennan, with instructions bearing date, June 6th, to proceed to the scene of disturbance, and to investigate its causes, with authority, if expedient, to place a guard of one hundred men around the Reserves, until such time as the Indians should be removed without the limits of the State, or further ordered. The muster roll, &c., of the Company, have all been received in proper form, and are on file in the Comptroller's office. Estimate of pay for said company, \$13,000. There will be required an appropriation of \$236 74 cents for expenses of Commission, for all of which I respectfully ask that appropriations be made at as early period as practicable, after the subject shall been satisfactorily investigated. It is not expected that the citizen should give his time and labor to the public without reward, and it is therefore right and proper that a liberal compensation should be tendered the Commissioners for the highly valuable and difficult service rendered.

I submit herewith, marked "F," the report of the board of Peace Commissioners, sent to the Reserve. This report discloses

facts which go very far to prove that our citizens were not without just cause for complaint, as much as the violent measures of redress, adopted by them may be regretted. It is to be observed, of the two appropriations made by the last Legislature, that in addition to the payment of the three months men—called out by my predecessor, and those of Capt. Ford—I authorised John Williams to raise twenty men for sixty days, on the 20th May, 1858, who have also been paid, and that Capt. Ford, by my authority, left twenty men in charge of Lieut. W. N. P. Marlin, near the Indian Reserve. On disbanding his Company, in the summer of the same year, Capt. Ford was appointed Paymaster, with instructions to pay off, and discharge this Company. Circumstances occurred preventing his giving it immediate personal attention. Maj. R. S. Neighbors was requested to muster them out; this was refused by the Company until they had received their pay. By my instructions, they have received none after the time the notice was given them.

The State government is in no manner responsible for the unfortunate and deplorable state of affairs which has existed on the frontier. The remedy has not been within the reach of its authorities. I found it a difficulty and perhaps the most serious with which I should have to contend on coming into office. It has proved to be so, and if it has been impossible, for most obvious reasons, to give satisfaction, it has been for no want of the most faithful endeavor to meet the difficulties which it has presented in view of the obligations and responsibilities of my position.

With these remarks and a respectful reference to my correspondence with the Federal authorities on the subject, on file in the State Department, I am content to leave the further solution and management of this question to the Legislature, and the able gentleman who has been chosen to succeed me.

Before the meeting of the last Congress I forwarded to the Secretary of War, as well as each of your delegation at Washington, an abstract prepared at the Comptroller's office, containing a distinct account of the several amounts appropriated by the State (and now due by the General Government) for Indian protection, and asking that they might be included in the estimates of the Department for the ensuing year. I have to report that this was not done by the honorable Secretary, in consequence of which, notwithstanding every effort of our delegation, an appropriation in part only was obtained. Evidences of the justice of the claims, in possession of the State authorities, were forwarded to sustain them, excepting only the muster rolls, which has not been usual, until demanded after an

appropriation has been made. I am not aware, however, of the existence of any stronger testimony of their exigency and justice, than their recognition and payment by the State will afford.

For information of the condition of the Treasury I refer your honorable bodies to reports of the proper accounting officers, from which as per estimates, the balance in the Treasury exclusive of ordinary expenses of State Government on the 31st of Aug., 1860, will be \$79,164,71, and 31st Aug., 1861 \$315,175,10 inclusive of \$168,105,86 due by the federal government for Indian matters an appropriation for only about fifty thousand dollars of which has been made.

The subject of taxation and revenue is always one of the greatest moment to government, and should not be overlooked at this time. The suggestions of the Comptroller deserves your most serious consideration. There is no proposition more true than that all who participate in the blessings of government and claim the protection of its laws, should contribute their due proportion to its maintenance and support. Our Constitution especially provides that taxation shall be equal and uniform on all property in proportion to its value. That object is not attained by the present system of assessing and collecting the revenue, and operates most unequally on the producing classes.

It may be safely estimated that near three-fifths of the wealth of our citizens consists of real estate, and yet it will be found paying little more than one-third of the annual revenue collected by taxation, while the holders are deriving large profits from the capital invested. This wide difference arises chiefly from the imperfect mode of assessment, the absence of a minimum rate below which lands should not be assessed, and lastly from the impossibility of rendering the tax available under sales of the Collector, from the imperfectness of the titles which they convey. The present law provides an umpire in case of disagreement as to the value of property in the assessment, and while its provisions reach the resident, they do not the non-resident landholder, who gives in his property when and where it suits his convenience, and upon his own terms. It is impossible that the assessors of Travis, Brazoria or Bowie should know the relative value of land, in each of those counties; and if they did, the law is remediless in their hands. The assessment of the lands of non-residents should be made either at the Comptroller's office or by the County Courts of the county in which they are situated, upon the return of the assessor thereto, or by the assessor and collector himself, of the county in which the land lies (as in ordinary cases,) where it is given in for assessment by the owner.

himself or his agent or if it lies in an unorganized territory, it could be assessed by the Comptroller at the average value of other land of similar quality. While I do not fully concur in abolishing all exemption of property from tax, I am clearly of opinion that all property of the tax payer should be held responsible for such as may be due from him to the State. I cannot see any well founded objection to a moderate increase of the poll tax as recommended. It is a contribution which every freeman should be willing to make, in consideration of the protection given him in the enjoyment of his rights and privileges by our laws.

I deem it my duty to call the attention of your Honorable bodies to the necessity of observing and enforcing the strictest rules of economy in the appropriation and disbursement of the public funds, as well as of a prudent husbandry of the public domain, which if not squandered by wasteful and prodigal legislation, will as it now does, constitute the greatest element of wealth and prosperity with which any State has ever been gifted.

Texas is yet in the infancy of her growth and prosperity. Every year will add to her resources of wealth under a system of wise and prudent legislation. Every year new accessions to her population are added, and yet so vast is the extent of her territory and so equally and generally are distributed her fertile lands, inviting the adventurous emigrant, that the annual increase is scarcely visible. Great lines of Railroad running in almost every direction are either in progress or contemplation, looking to the State for aid. The institution of schools, colleges and universities are looked to by anxious parents for the education of the rising youth. Indeed, the various sources of expenditure which will task the power and the liberality of the State to its utmost can scarcely be enumerated.

They warn you in language more forcible than any at my command, of the dangers of extravagance and the absolute necessity for economy. The vast and fertile regions which have already been frittered away without any sufficient indemnity, would, if properly husbanded, have afforded a fund ample for all the purposes of the present. If the admonitions which the past should teach are disregarded, and systems of wild, selfish and speculative legislation are persevered in, then may we bid farewell to the splendid prospects which invite to the realization of a brilliant future. Then too, we may expect that those who succeed us will, if not with the finger of scorn, turn and look with regret upon the folly of those who failed to improve and economise the means placed in their hands by the gift of God

for their own and the welfare of posterity. Without economy and prudence united with the most stubborn virtue, the brilliant hopes cherished cannot be realized. Without them, the promise of the present will vanish like the fleeting mirage of the desert never to return.

It is my melancholy duty to announce to your honorable body the death of Senator J. Pinckney Henderson which occurred at Washington on the 4th day of June, 1858. He died in the discharge of the duties almost unanimously imposed on him by the voice of the people through their representatives. Able in council, eloquent in debate and gallant upon the field, he was chosen the first Executive of the State after annexation to the Union. Although he had held so many high stations of trust and honor, Gen. Henderson had but little passed the meridian of life when he was transferred to that theatre of more extended usefulness for which his eminent talents and more than Spartan virtue so well fitted him. The loss of one who united so much of public confidence at a time when the friends of the constitution are in danger of being overwhelmed by the seemingly resistless tide of sectional and religious fanaticism, is to be regarded by his State and his section as a public calamity.

I commissioned the Hon. Mathias Ward, on the 29th of September following, to fill the vacancy created by the death of Gen. Henderson. The duty of electing a successor will devolve on your honorable bodies.

I deem myself fully justifiable under existing circumstances, in indulging in a few brief allusions to the political history and condition of the times. Soon after the adoption of the Federal Constitution, there arose in the minds of leading statesmen, differences of opinion as to its nature and powers. These differences have continued to exist to the present day, and are made the texts of faith upon which political parties divide. As originally organized they were called Federalists and Republicans. The Federalists were comprised chiefly of those who favored a strong government of the British model, and after the formation of the Constitution, endeavored by a loose construction of its provisions to give the Federal Government powers which were clearly unauthorized, and had been refused by the States; and hence, the adoption of that name which most fitly illustrated their principles. But their encroachments upon the reserved rights of the States increased to so alarming an extent, that the Republican or Democratic party, as it was then reproachfully called, was organized under the auspices of Mr. Jefferson and others to resist their aggressions. The first great struggle

between these parties arose upon the alien and sedition laws; the Federalists sustaining, and the Republicans denying their constitutionality.

The Virginia and Kentucky resolutions, drawn respectively by Messrs. Madison and Jefferson, defining the rights of the States and the powers of the Federal Government under the Constitution, were denounced as subversive of the Government, as revolutionary, and as tending to anarchy. A number of the State Legislatures passed counter resolutions, and finally their advocates were called Democrats in derision and contempt; thus associating them with the revolutionary leaders of Republican France, where the propagation of false theories had destroyed society and deluged its soil with blood. But notwithstanding these calumnies, and notwithstanding every effort to proscribe the authors of those celebrated resolutions, the States had too recently emancipated themselves from the power of Britain not to have had their fears and jealousies aroused against confiding it without limitation to another central head. They had therefore wisely reserved to themselves respectively, the great mass of residuary powers which could not be safely or properly exercised by the Federal Government.

The election of Mr. Jefferson in 1800, was the first great triumph of the Republican or Democratic party, by which the efforts of the Federalists to consolidate the Government were checked. It has left its impress upon the political history of the country never to be forgotten. In every succeeding political struggle the principles upon which that controversy turned, have been made the tests of orthodoxy upon which the qualifications for office and honors have been made in great measure to depend. The principles of the Democratic party of 1859, are the same as those of the Republican party of 1800. They have been transmitted from generation to generation, unaltered and unchanged; and as the connecting link of the past with the present, are clearly shewn to afford the only reliable interpretation of the Constitution which binds the union of these States together. They have been adhered to in every vicissitude as the only ark of safety, with a devotion not less sincere and true than that which united the early christians. If they have always had their defamers, yet they have never been without their defenders. If by an occasional departure from the faith, the vessel of State has been steered from the course of strict construction, it has been saved from the dangers which encompassed it by a return to the true principles of the Constitution. If by desertion, treachery, fraud, or *deception*, their enemies have temporarily triumphed,

the sober second thought has seldom failed to correct the error of opinion liable to occur under any system of popular Government. For twenty-four years the Government was administered without a single intermission by those who were charged with harboring disunion sentiments, and an intent to subvert it. Truth falsified the charge, and along with it every prediction, for none of them have been verified—so far from it the country was triumphantly conducted through the dangers of a bloody war with the most formidable power of the earth, and in spite of the treasonable measures of the Hartford Convention Federalists, and the assistance of their coadjutors *North and South*, who not only afforded aid and comfort to the public enemy, but threatened open revolution as the means of forcing a dishonorable peace. Thus was the power of hostile armies from abroad, aided by fanaticism and treason at home, successfully resisted by the patriotic defences thrown around the Government by those oft denounced disorganizing principles. In the introduction of the American system, comprising the triplicate measures of Bank, Tariff and Internal Improvements, may be ascribed the first great departure of any considerable body of the party from the States Rights strict construction doctrines of these resolutions. Those issues governed the Presidential election of 1824, the results of which well nigh ended in a dissolution of the Union on account of the odious exactions imposed by the tariff which followed it. The intellectual and patriotic lights who had framed the Constitution and fixed the correct principle of its construction, had nearly all passed away, and those whose reckless and ambitious spirits could no longer be content with a plain practible administration of a Government of well defined and limited powers, had taken the places of its wise and patriotic founders in the national councils.

The most prominent measures of the coalition, or as it was called, the National Republican party, were the Tariff, by which the industry of one section of the Union was to be taxed for the support and protection of the manufacturing interests of another ; a Bank in which to deposite the revenue when collected, with the privilege of loaning three paper dollars for every one received in coin to the manufacturers, and a system of Internal Improvements through which it was to be expended, by digging canals and building roads to the doors of the manufacturers for their convenience. This was the first chapter in the lessons of experience taught by the history of this new party, and it might have been hoped would be the last. But not so, for though defeated in several of the succeeding Presidential elections, these measures have constituted the leading issues upon which parties

have been divided down to a recent period. In 1836, under another new disguise, that of Whigs, the opposition appeared before the country with the simple addition to their former list of measures, of a distribution of the proceeds of the public lands among the States. Defeated again in that election, they however succeeded in the hard-cider campaign of 1840, by virtue of the abolition excitement which had sprung up in the free States, combined with the monetary and commercial crisis of 1837-'38 which proceeded from their own bloated and extravagant systems, which had been for a time fastened upon the policy of the country. No sooner had they come into power than the protective tariff was again revived, in violation of the compromises of 1833, by which it was to be gradually reduced to the revenue standard and a dissatisfied South reconciled. The entire batch of corrupt and dangerous measures, advocated by the old coalition, were brought forward and claimed to have been endorsed by the American people. But their authors were doomed to be in part disappointed; unluckily for their Bank—the *panacea* for almost every political evil, the exchanges were found to regulate themselves, and the prosperity of the country returned without its intervention. The success of the Democracy, in the following election of Mr. Polk, forever stamped the measure with the seal of popular condemnation. The tariff was reduced to the revenue standard, and the Bank bill, having been vetoed by Mr. Tyler, and their extravagant system of Internal Improvements defeated by the veto of Mr. Polk, the next mask assumed was that of the “No-Party-Party”—sometimes calling themselves Democratic Whigs, advocating principles only as they suited particular latitudes, and having no other platform than opposition to the constitutional veto power of the President. Having rendered themselves odious by an unavailing opposition to the Mexican war, they adopted in this instance the artifice of running the general who had fought most of their battles, and by the advocacy of one set of opinions at the North and another in the South, upon the negro question, succeeded in the election. This dark piece of political prostitution forever established their want of fidelity as a party to all profession of principle. The brief, but momentous career of that administration, furnishes one of the most disastrous chapters in the political history of the country. There was, of course, no unity of sentiment among the friends of the administration in Congress, during the excitement which prevailed upon the territorial question. Its northern supporters, having been thoroughly abolitionized before the election, refused co-operation with the advocates

of justice and the Constitution, and, but for the patriotic bearing and self sacrificing devotion of the northern and southern Democracy, the most deplorable results would have followed.

Yet another, and perhaps the last attempt to effect and maintain a national organization, is to be recorded. In this, however, they have been anticipated by the States Rights Democracy, who foreseeing the dangers to the Constitution and the rights of the States springing from the agitation of the sectional issues, had determined to return to first principles for future guidance and safety. The Virginia and Kentucky resolutions had been readopted in the platform of 1852, with the pledged declaration of the party to adhere to them in any contingency. The issues presented by this new opposition fusion were almost identical with the Federal measures which led to the adoption of the principles of faith contained in them in the first place. Simultaneously with the birth of the Know Nothing party in Boston, its contagion spread to the southern and western cities, and within half a year there was scarcely a town or hamlet in the Union to which its pestilential influences were not extended. Inquiry and investigation, however, soon succeeded the curiosity which it first excited, and the Virginia election, the following year, doomed it forever as a national organization. In the North, those who filled its ranks have all gone to the Black Republicans. It cannot be disputed that their anarchial and revolutionary schemes are at open warfare with the rights of property and the constitutional laws by which it is protected. In the South, with no other creed than empty professions of patriotism and love for the Union, the organization is maintained by feigning issues which never existed, and is sustained by malcontents who use it for the indulgence of those bad passions which always actuate deserters from a good to a bad cause. At both the extremes of the Union, the opponents of the organized Democracy have one common aim, (it is hoped for different ulterior purposes,) the final overthrow of the Democratic party.

In the North, it is the preliminary and necessary step to their sworn purpose of destroying Slavery, and whether designed or not, the effect of Southern co-operation for the destruction of the organization of the Democratic Party, plainly leads to the ultimate object of the stronger section, and is therefore accessory to the fanatical pretensions of the abolitionists. What better assurance—indeed what stronger guaranty, can the anti-slavery men of the North desire of their ultimate success, than the doctrines of extreme submission avowed by their Southern co-laborers. It can matter little whether the Constitution shall be

broken by a loose construction of its provisions, or is disregarded for a higher Law, if in either event, a government of misrule, arbitrary and unconstitutional in its action, is to be the result.— This, however, is only a fair deduction from the principles and practice of that higher law patriotism and pretended love of the Union, which rise above the Constitution and the rights of their section.

By whatever names the opposition to the regular Democratic organization may have passed for half a century, whether as anti-Masons, National Republicans, Whigs, Know-Nothings, *Union Men* or *Higher Law Men*, the radical difference of opinion which has existed in regard to the nature and powers of the Government, has manifested itself in that Federal and latitudinous construction of the Constitution, so often and so long repudiated for its dangerous tendencies. It can scarcely be believed, that those who have followed the fortunes of modern Federalism to its fall as a National organization, can now be sincere in their professions of loyalty to the Union, and at the same time true to their section and the Constitution.

A Party which united with the advocates of the Wilmot-Proviso in 1848, in the support of Taylor, and afterwards voted for Fillmore with his Free-Soil and black tariff record, (without the remotest prospect of success) thereby evincing a willingness for the election of the Black Republican, Fremont, over Mr. Buchanan, whose Administration they now pretend to support, can surely have but little room to stand upon the platform of a Democratic organization, which has been opposed by every word, deed, act and sentiment of their whole lives. The hypocrisy and ridiculousness of such a pretension, are too transparent for comment. It is to be presumed that all are for the Union under the Constitution (as no organized Party is known to exist in opposition to it)—but if the opinions of those claiming its advocacy as their own peculiar creed, imply obedience and unconditional submission to capricious sectional and unauthorised exaction, then fealty to it would be inconsistent with the rights of the freemen of this or any other country. It does not partake of the spirit of those who pledged their lives, fortunes and sacred honors in defense of the liberties of these States.

There can be few so blind to the lights which are gathering around us, as not to see that events are fast converging to a fearful catastrophe: Witness the recent invasion and attempted insurrection at Harper's Ferry, and which, though differing in the commission of the overt act, events have had counter parts in our own State within the last six months, not less ominous.

From the open avowals of the opposition in Tennessee, Kentucky, Virginia and Maryland, of the intention to co-operate and join hands with the Black Republicans, it is not difficult to foresee what will be the conduct of those who are hastening the approach of danger by voluntarily pledging themselves to unconditional submission, and heaping upon those who will not bow to so base and slavish a heresy, the threadbare charges of secession and disunion. The attitude of affairs closely resembles that which existed prior to the American Revolution, when the patriots under the lead of Jefferson, Franklin and other sages and heroes, exhausted every resource of argument and entreaty in their petitions to the British Government, for an observance of the rights under its ancient constitution, as subjects of the crown. This I regard as analogous to the position of the States' Rights Democracy of the South and of the Union.

A dissolution of the Union has not been sought, and perhaps never will be, as long as its existence is consistent with the rights guaranteed by the Constitution. It is an alternative which would be preferred only to those intolerable and greater evils which caused the separation of the thirteen united Colonies from the mother country, of which Mr. Jefferson has well said there could be none greater "than submission to a government of unlimited powers."

The States' Rights Democracy rely upon the conviction that the government was founded in the interests and affections of the people, and that upon them it must rely for maintenance and support; that it has derived its just powers from the consent of the governed in the form and to the extent prescribed by the Constitution as their only source, and when it shall have ceased to fulfil the object of its creation, and not till then, will arise a sufficient cause for its dissolution.

But the Opposition by a loose construction of the Constitution, have always claimed for the General Government more extensive powers than are warranted by that instrument.— From this view, results as a natural consequence, their doctrine of unconditional submission, which by a higher law construction, makes the agent superior to the principal, and binds the latter to obey without a murmur, the most outrageous usurpations of the former. No one will pretend that so broad a rule of construction could be maintained at common law, in cases arising between individuals; but strange as it may seem, no other inference from it can be drawn than that a Government whose powers are clearly limited and confined by a written Constitution, may use force to cause the sovereign States which

adopted that instrument, to obey its most unjust and unconstitutional measures. From this same system of false construction, has sprung the issue of squatter or Territorial sovereignty, which ambitious and blinded partizans, have seized upon as a new element of agitation. The doctrine that the Territories are the common property of the Union, and that the citizens of each of the States, have the indefeasible right to protection of their property of every description therein, is too well settled to admit of any refutation. The Constitution of the United States, has recognized property in slaves to stand upon the same footing as other property, and therefore entitled to protection in the Territories. In the Dred Scott decision, it was held that neither Congress, nor the Territorial Government, could prohibit it in the Territories, and that it was the duty of Congress to protect it. The Territorial Governments occupy a subordinate position to that of the General Government, which has been well likened to that of a corporation, created by the State—a creature of its will, and authorized to exercise such powers only as have been conferred; and certainly not those which do not belong to the State itself. These issues do not legitimately flow from the nonintervention doctrines of the Kansas and Nebraska Act, nor of the Democratic Platform, which simply mean that Congress should neither establish nor prohibit Slavery in the Territories, but leave the question to the Constitution and the Courts. When the Courts have intervened and determined the question, the South is not allowed the benefit of that decision, but an appeal is taken to the people with the revolutionary object of depriving us of that protection of the property of our citizens to which the Constitution entitles them. The Democratic party has always claimed to be the only true representative of the principles of that instrument. It has especially entitled itself to the support of the South, because of the security it has afforded against unconstitutional encroachments upon the rights of its citizens. There has now manifestly arisen a difference of opinion with many of its followers in the Free States, upon a most important principle concerning them. The question should be determined without equivocation. If there can be no longer unity and harmony of sentiment, if the Southern people are no longer to look to it as the chief reliance for the maintenance of their equal rights, their internal peace and security, the sooner it is known the better. They should neither cheat nor should they submit to be cheated. I therefore recommend a clear and unequivocal expression of opinion by the Legislature on the subject.

Let it not be said that the adoption of this suggestion will be agitation.—It is to resist that which has already been begun, and is but too fast demoralizing the hitherto true Democracy of the Free States. It is the existence of agitation which requires of us, action to counteract its baleful influences.—We have asked, time and again, that the agitation of all mischievous questions, calculated to endanger our domestic polity, or our peace and security, as equal members of the confederacy, should cease. Our prayers have not been granted, and now shall we submit without the utterance of a murmur or complaint—without even offering a reason to combat the false dogmas of anti-slavery propagandism, however insidious and covert its form, or hidden in its object? My own answer, first, last and forever—is unconditionally, No ! Silence at this juncture, in view of the peculiar political position of Texas, may be misconceived and misconstrued. Equality and security in the Union or independence outside of it, should be the motto of every Southern State.

I entertain the most devout conviction, that if guided by wisdom, prudence, sagacity and patriotism, the Divine Being will smile on your councils, and that all may yet be well.

H. R. RUNNELS.

The Senate having retired to their Chamber, on motion of Mr. Britton, the Senate adjourned till 10 o'clock to-morrow.

FRIDAY, Nov. 11, 1859.

Senate met pursuant to adjournment. Prayer by the Chaplain—roll called—quorum present. The journal of the preceding day was read and adopted.

Mr. Walker presented the petition of Sarah H. Cockrill, asking that she be permitted to build a bridge across the Trinity river with exclusive privileges. Referred to the Committee on Roads, Bridges and Ferries.

Mr. Fall presented the petition of Samuel Jordan, praying for relief. Referred to the Committee on Private Land Claims.

Mr. Walker, Chairman of the Committee on Public Lands, made the following report :

The Public Land committee, to whom was referred a Bill to be entitled an Act supplementary to and amendatory of an Act entitled an Act, to provide for pre-emption settlers and their assignees, under an Act of the 22d day of January, 1845 ; the Act of the 7th of February, 1853, and the Act of the 13th of February, 1854, and actual settlers in the Mississippi and Pacific